

Attorney Docket Number 2000.602 US

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

EGBERINK ET AL

Serial Number: 10/054,458

Group Art Unit: 1615

Filed: January 24, 2002

Examiner: To be assigned

For: PHARMACEUTICAL FORMULATION OF GEPIRONE FOR ORAL  
ADMINISTRATION

RECEIVED

MAY 23 2002

LICENSING &amp; REVIEW

PETITION FOR RETROACTIVE LICENSE UNDER 37 C.F.R § 5.25Assistant Commissioner of Patents  
Washington, D.C. 20231

May 28, 2002

Sir:

Applicants respectfully petition for a Retroactive Foreign Filing License under 37 C.F.R § 1.54. The above-identified patent application was sent by certified mail to the United States Patent and Trademark Office on November 21, 2001.

As described in the attached declaration by Dr. Broekkamp, the member of assignee Akzo Nobel N.V.'s Patent Department in the Netherlands who filed the first application, the first filing of the present application was done in the European Patent Office on December 8, 2000, application number 00204388.3. The undersigned has been informed that this European application has since been withdrawn. A PCT application, WO/EP01/14189, was filed November 30, 2001 based on the European application for priority. No steps have been taken to enter the national stage for the PCT application in any country.

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A foreign filing license was granted on the present application on March 18, 2002. It has never been under a secrecy order and is not presently under a secrecy order. This petition is filed within two months of receiving a filing receipt for the present application. It was not until March 22, 2002 that the undersigned received the filing receipt, so that neither the serial number nor the date on which the United States Patent and Trademark Office received the present application was known until that time. (The U.S. Postal Service was not accepting Express Mail to the United State Patent and Trademark Office on November 21, 2001.)

As explained in the attached declaration by Dr. Broekkamp of the Patent Department in The Netherlands, the final determination of inventorship is apparently made after filing the priority application in the European Patent Office. According to Dr. Broekkamp, the determination that the inventive activities were partially done in the United States was not done until after filing the European application. When this was discovered by Dr. Broekkamp, he provided an application to be filed immediately in the United States to the office of the undersigned. The application was submitted for filing and the need to pursue a Retroactive Foreign Filing License was explained to Dr. Broekkamp. Accordingly, Dr. Broekkamp's attached declaration was prepared and this petition is now submitted after receiving the application serial number and filing date. It is respectfully submitted that first filing an application in the European Patent Office for which the invention was partially made in the U.S. was done through error and without deceptive intent. It is

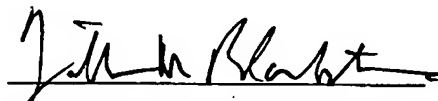
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respectfully requested that a Retroactive Foreign Filing License be granted.

Submitted herewith is the required fee under 37 C.F.R. § 1.17(h). The Commissioner is hereby authorized to charge our Deposit Account No. 02-2334 for the required fee of one hundred and thirty dollars (\$130.00) and any other fee(s) associated with the filing of this paper.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,



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